

PUBLIC UTILITIES COMMISSION

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Christopher Calfee, Special Counsel
ATTN: CEQA Guidelines
California Resources Agency
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CEQA.Rulemaking@resources.ca.gov

**Re: Comments on 2009 Proposed Rulemaking - AMENDMENT OF REGULATIONS
IMPLEMENTING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Dear Mr. Calfee:

The California Public Utilities Commission (CPUC) is a responsible and/or permitting state agency for projects that affect the safety of rail transit and railroads. The CPUC's Rail Transit & Crossings Branch welcomes the opportunity to comment on the proposed amendments to the California Environmental Quality Act (CEQA). In summary, we ask that specific questions regarding rail crossing traffic and safety be added to the environmental review checklist.

CPUC staff encourages lead agencies to work with the Rail Transit & Crossings Branch early in project planning. Early involvement in the CEQA process helps project proponents, agency staff, and other reviewers identify potential project impacts and appropriate mitigation measures to protect the safety of motorists, pedestrians, other members of the public, rail personnel, and rail passengers.

The proposed CEQA amendments have the stated purpose to provide "for the mitigation of greenhouse gas emissions and the effects of greenhouse gas emissions." Alternative modes of transportation (pedestrian, mass transit, etc.) are likely to be favored in the proposed analysis. This may result in an increasing use of and development around rail transportation, with consequent increases in conflicts between roadway users and trains. While development can result in motorist delay at rail crossings, associated emissions, energy consumption concerns, or alternatively, reduced emissions due to the use of rail transportation instead of vehicles, safety must also be addressed where track or rail crossings exist in the vicinity of a project.

The ideal improvement for traffic operation, associated emission and energy impacts, and safety is a grade separation structure to separate trains from roadway users. Other mitigation measures, including traffic signals or railroad crossing warning devices, may have varying impacts to traffic operations and safety in the vicinity of a rail crossing. However, without proper analysis and due consideration, project proponents routinely fail to mitigate the safety impacts to rail crossings and corridors. Project proponents often cite that the CEQA checklist was followed and therefore the analysis was complete.

The CPUC recommends that the checklist include impacts associated with rail transportation and particularly the traffic safety impacts associated with rail crossings. We propose changes to Section XVI "TRANSPORTATION/TRAFFIC" (page 47-48, Text of Proposed Amendments).

1. As a responsible or permitting agency dealing with rail and rail transit crossings, we find that project proponents frequently have not analyzed project effects on rail crossings and adjacent rail corridors, which may be significant, rendering the crossing in its current configuration inadequate.

Comment:

We strongly recommend a new checklist item asking whether the project would:
“Result in increased potential for congestion, conflicts, or collisions involving railroad or rail transit tracks and crossings?”

2. Proposed Section XVI(a) asks whether the project would: Exceed the capacity of the existing circulation system, based on an applicable measure of effectiveness (as designated in a general plan policy, ordinance, etc.), taking into account all relevant components of the circulation system, including **but limited to** intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? (Emphasis added.)

Comment:

- There appears to be a typographical error. The proposed text states “including but limited to” rather than “including but **not** limited to”.
- The considerations should not be strictly limited to the items identified. Rail crossings, an item not on the list, present a key conflict in the capacity of the circulation system and should be added to the examples.

3. Existing language Section XVI(d) asks whether the project would: Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Comment:

- This checklist item regarding transportation safety should be expanded to take into account more components of the transportation system, especially those that could affect safety. Hazards of particular concern may include rail transit, railroads, and the associated at-grade crossings where rail crosses roadways.
- Consider modifying the language to ask whether the project would:
 - Substantially ~~increase hazards~~ *reduce safety* due to a design feature (e.g., sharp curves or dangerous intersections), ~~or create~~ incompatible uses (e.g. farm equipment), *or increase the frequency or severity of collisions (e.g., buses, light or heavy rail vehicles, bicycles, pedestrians)?*

We thank you for the opportunity to comment on the proposed revisions. Please contact Daren Gilbert at (916) 324-8325 or at dar@cpuc.ca.gov with any questions regarding these comments.

Sincerely,



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